

§ 200.12

(3) The LEA shall make the final decisions with respect to the services to be provided to eligible private school children.

(Authority: 20 U.S.C. 6321(a))

§200.12 Requirements to ensure that funds do not benefit a private school.

(a) An LEA shall use funds under this subpart to provide services that supplement, and in no case supplant, the level of services that would, in the absence of title I services, be available to participating children in private schools.

(b) An LEA shall use funds under this subpart to meet the special educational needs of participating private school children, but not for—

- (1) The needs of the private school; or
- (2) The general needs of children in the private school.

(Authority: 20 U.S.C. 6321(a), 6322(b))

§200.13 Requirements concerning property, equipment, and supplies for the benefit of private school children.

(a) A public agency must keep title to and exercise continuing administrative control of all property, equipment, and supplies that the public agency acquires with funds under this subpart for the benefit of eligible private school children.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall ensure that the equipment and supplies placed in a private school—

(1) Are used only for title I purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency shall remove equipment and supplies from a private school if—

(1) The equipment and supplies are no longer needed for title I purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment or supplies for other than title I purposes.

(e) No funds under this subpart may be used for repairs, minor remodeling,

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or construction of private school facilities.

(f) For the purpose of this section, the term *public agency* includes the LEA.

(Authority: 20 U.S.C. 6321(c))

§200.14 [Reserved]

CAPITAL EXPENSES

§200.15 Payments to SEAs for capital expenses.

(a) From the amount appropriated for capital expenses under section 1002(e) of the Act, the Secretary pays a State an amount that bears the same ratio to the amount appropriated as the number of private school children in the State who received services under this subpart in the most recent year for which data satisfactory to the Secretary are available bears to the total number of private school children served in that same year in all the States.

(b) The Secretary reallocates funds not used by a State for purposes of §200.16 among other States on the basis of their respective needs.

(Authority: 20 U.S.C. 6321(e)(1))

§200.16 Payments to LEAs for capital expenses.

(a)(1)(i) An LEA may apply to the SEA for a payment to cover capital expenses that the LEA, in providing equitable services to eligible private school children—

(A) Is currently incurring; or

(B) Would incur because of an expected increase in the number of private school children to be served.

(ii) An LEA may apply for a payment to cover capital expenses it incurred in prior years for which it has not been reimbursed if the LEA demonstrates that its current needs for capital expenses have been met.

(2) *Capital expenses* means only expenditures for noninstructional goods and services that are incurred as a result of implementation of alternative delivery systems to comply with the requirements of *Aguilar v. Felton*. These expenditures—

(i) Include—